IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of: **ROY**	)) Attorney Docket No.) **ID-494 (80215)**
Serial No. **10/777,871**	))
Confirmation No. **6107**	) Examiner:) **Ajay Bhatia**
Filing Date: **FEBRUARY 12, 2004**	))
For: **COMMUNICATION SYSTEM PROVIDING REDUCED ACCESS LATENCY AND RELATED METHODS**	) Art Unit:) **2445**))

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Responsive to the final Official Action of October 15, 2009, and in connection with the Notice of Appeal filed concurrently herewith, please consider the remarks set out below.

I. The Claims Are Patentable

The Examiner rejected the independent claims over a combination of Hoglund et al. and Horstmann et al. Hoglund et al. is directed to a communications system for transmitting signals from a first communication device to a second communication device at a user specified real time and/or a polled transmission. More particularly, Hoglund et al. discloses a wireless messaging service that allows users to transmit and/or receive email and other messages on a real-time basis via an email account associated with the wireless communications device. Users can also check email messages stored within a separate POP or IMAP email account.

The Examiner correctly recognized that Hoglund et al. fails to disclose the protocol engine module also initiating polling for a given one of the plurality of mobile wireless communications devices without initiated configuration commands and instructions from the software client thereof, and irrespective of communications with the given mobile wireless communication device. The Examiner turned to Horstmann et al. for these critical deficiencies. Horstmann et al. is directed to a communications server that collects messages from two or more email sources and presents them to a user from a single location. The messages may be forwarded to a mobile device and formatted for that receiving device.

As an initial matter, Applicant notes that the Examiner has mischaracterized one of Applicant's prior arguments as, "the prior art does not teach UIDs." Applicant has argued and submits that Hoglund et al. fails to disclose the protocol engine module being for cooperating with the protocol converter module <u>to provide the UID list to the respective software client of each of the plurality of mobile wireless communications devices</u>.

Applicant submits that Hoglund et al. fails to disclose the protocol engine module being for cooperating with the protocol converter module to provide the UID list to the respective software client of each of the plurality of mobile wireless communications devices. Instead, Hoglund et al. discloses the lookup manager 620 downloading messages from the server 512 based upon a message ID to the proxy server 505. (See Hoglund et al., paragraphs 0090-

0091). Once new messages have been downloaded, "the gateway server is notified to take action to transmit the message to the designated wireless device." (Emphasis Added; See Hoglund et al., paragraph 0093). In other words, Hoglund et al. discloses the messages being provided to the wireless devices. The messages are not the message IDs. In stark contrast, as recited in the independent claims, the protocol engine module is for cooperating with the protocol converter module to provide the UID list to the respective software client of each of the plurality of mobile wireless communications devices. Nowhere in Hoglund et al. does it disclose providing the UID list to the respective software client of each of the plurality of mobile wireless communications devices. Accordingly, the independent claims are patentable for at least this reason alone.

The Examiner also contended that Horstmann et al. discloses "maintaining a UID list and determining new messages" and that somehow supplies the above-noted deficiencies of Hoglund et al. The Examiner referred to Col. 6, lines 32-45, to support his contention. Col. 6, lines 32-45, of Horstmann et al. fails to disclose providing the UID list to the respective software client of each of the plurality of mobile wireless communications devices. Instead, Col. 6, lines 32-45, of Horstmann et al. merely discloses determining whether or not a UID is already in a database. Accordingly, Horstmann et al. similarly fails to disclose providing the UID list to the respective software client of each of the plurality of mobile wireless communications devices, thus the independent claims are patentable.

Additionally, Applicant submits that the Examiner further mischaracterized Hoglund et al. as it fails to disclose the protocol engine module also initiating polling. The Examiner turned to Hoglund et al., paragraph 0096 to support his contention that Hoglund et al. discloses the protocol engine module also initiating polling. Hoglund et al., paragraph 0096, discloses that the user specify, via the registration system, that his messages are to be downloaded automatically on a predetermined basis. The user optionally sets the time at which he wishes his messages to be retrieved via the registration system 518. Indeed, it is the user that is initiating the polling. In contrast, independent Claims 1, 12, 18, 24, and 29 recite that the

protocol engine module initiates polling for a given one of the plurality of mobile wireless communications devices.

Applicant submits that the Examiner's proposed combination of references is improper, as a person having ordinary skill in the art would not turn to Horstmann et al. to supply the critical deficiencies of Hoglund et al. Hoglund et al., discloses the particular wireless device must be registered with the system to retrieve email messages (i.e. polling). In other words, Hoglund et al. discloses the wireless devices having to be in communication with the system for message retrieval and the user initiating the polling. Hoglund et al. requires the wireless devices be in communication with the system for message retrieval and the user initiate the polling for volume handling and scalability. (See Hoglund et al., paragraph 0095).

Horstmann et al., discloses polling at an interval regardless of whether the user is currently logged into the communications server. Indeed, combining Horstmann et al. with Hoglund et al. would be disregarding the teachings of the Hoglund et al. scheduler 610, and would thus teach away from the volume handling and scalability teachings of Hoglund et al. Accordingly, the combination of Hoglund et al. and Horstmann et al. is improper.

It is submitted that independent Claims 1, 12, 18, 24, and 29 are therefore patentable over the prior art. Their respective dependent claims, which recite yet further distinguishing features, are also patentable over the prior art and require no further discussion herein.

II. Conclusion

In view of the arguments presented above, it is submitted that all of the claims are patentable. Accordingly, a Notice of Allowance is respectfully requested in due course. If the Examiner determines any remaining informalities exist, he is encouraged to contact the
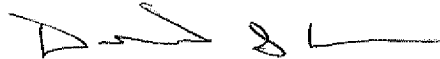
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Respectfully submitted,

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